

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATHRYN FJELD,

Plaintiff,

- against -

INTERNATIONAL BUSINESS MACHINES, INC.,
d/b/a IBM, ISOGON CORPORATION,
TETRAGON, L.L.C., STEVEN BARRITZ,
ROBERT BARRITZ,

Defendants.

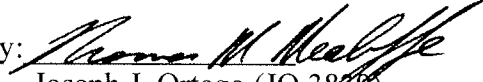
07 Civ. 10355 (CM/HBP)

**NOTICE OF MOTION TO
DISMISS OR, IN THE
ALTERNATIVE, FOR A
MORE DEFINITE
STATEMENT**

PLEASE TAKE NOTICE, that upon the annexed Declaration of Thomas M. Mealiffe, dated December 3, 2007, the accompanying Memorandum of Law, and the exhibits annexed thereto, and upon all prior pleadings and proceedings herein, the undersigned will move this court, before the Honorable Colleen McMahon, at the courthouse located at 500 Pearl Street, New York, New York 10007 at a time to be determined by the Court for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) and 12(e), granting the motion of Defendant Tetragon L.L.C. (1) dismissing plaintiff's Fifth Cause of Action with prejudice; or (2) in the alternative, directing plaintiff to provide a more definite statement with regard to the Fifth Cause of Action.

Dated: Jericho, New York
December 3, 2007

NIXON PEABODY LLP

By: 
Joseph J. Ortego (JO 3859)
Thomas M. Mealiffe (TM 7369)
Attorneys for Defendant
Tetragon L.L.C.
50 Jericho Quadrangle
Jericho, New York 11753
(516) 832-7500

TO: Gerald A. Bunting, Esq.
Bunting, Goner & Associates PC
1983 Marcus Avenue, Suite 117
Lake Success, NY 11042
(516) 358-8825

Diane Krebs, Esq.
Gordon & Rees LLP
Attorneys for Defendants
IBM, Isogon Corporation
90 Broad Street, 23rd Floor
New York, NY 10004
(212) 239-5500